

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

MDL No. 2672 CRB (JSC)

**ORDER (I) DENYING MOTION FOR
CLASS CERTIFICATION, (II)
DENYING MOTION TO EXCLUDE
EXPERT TESTIMONY, AND (III)
GRANTING MOTIONS TO SEAL**

This Order Relates To:
MDL Dkt. Nos. 6386, 6387, 6605, 6821,
6825, 6827

Napleton, No. 3:16-cv-2086-CRB

In a separate Order issued today, the Court granted the Bosch defendants’ motion for summary judgment on all of the named-plaintiff-dealerships’ claims. (*See* MDL Dkt. No. 6956.) In light of that decision, the Court now DENIES as moot (i) the dealers’ motion for class certification (*see* MDL Dkt. No. 6387), and (ii) the dealers’ motion to exclude an expert report that the Bosch defendants submitted in opposition to class certification (*see* MDL Dkt. No. 6827).

The Court also addresses several motions to seal. The dealers and the Bosch defendants seek to seal numerous exhibits that they included with their briefing on class certification and on the motion to exclude. (*See* MDL Dkt. Nos. 6386, 6605, 6821, 6825.) Many of the exhibits identify technical details about the Bosch defendants’ emissions software. Others detail the dealers’ finances.

If the Court had considered the motion for class certification and the motion to exclude, the parties’ interests in keeping these exhibits confidential may not have outweighed the public’s right of access. However, because the Court did not consider the motions—and denied them as moot—the scale tips the other way. The presumption in favor of public access to judicial documents is

1 based on the public policies of “judicial accountability” and “education about the judicial
2 process.” *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir.
3 2002). For the exhibits in question, these policies carry little weight. To understand the judicial
4 process, the public may review the parties’ briefing and evidence (and the Court’s Order) on
5 summary judgment. Those documents are publicly available and reveal how this case was
6 decided. The exhibits to the motion for class certification and to the motion to exclude, in
7 contrast, do not offer insight into the judicial process, because the Court did not consider them.

8 The parties have an interest in keeping their technical and financial information
9 confidential. Although that interest is not absolute, it outweighs the public’s right of access under
10 the circumstances. The Court therefore GRANTS the parties’ motions to seal.

11 **IT IS SO ORDERED.**

12 Dated: December 6, 2019



CHARLES R. BREYER
United States District Judge